

Dan L. Williamson (“Williamson”) appeals the denial of unemployment compensation benefits. Williamson raises three issues, which we consolidate and restate as whether the Review Board of the Indiana Department of Workforce Development (“Review Board”) properly affirmed the denial of Williamson’s unemployment benefits based on a finding that he was discharged for just cause.

We affirm.

Facts and Procedural History

The Administrative Law Judge (“ALJ”) made the following findings of fact which were adopted by the Review Board:

The claimant began work with the employer on April 14, 2007. His job title was machinist and was a full-time hourly employee. The claimant was discharged on October 3, 2007 for allegedly being repeatedly argumentative with the employer. On July 27, 2007, the claimant was given his 90-day review. In his review, it was noted that the claimant at times he [sic] “does not seem to take direction well and becomes argumentative.” The employer submitted both firsthand testimony and hearsay testimony regarding repeated incidents of the claimant being argumentative. The employer offered hearsay testimony to establish that the claimant had become argumentative July 10, 2007, repeatedly changing a program against the directions of his supervisor. On August 15, 2007, the claimant again argued with his supervisor over an inspection criteria[sic]. On September 17, 2007, the claimant argued with Ms. Kindle, the executive assistant, who gave firsthand testimony that the claimant was argumentative regarding his suspension for being repeatedly tardy. The claimant also complained that he would “get the hand” meaning that the supervisor he was arguing with would raise his hand in a stop gesture which the claimant considered disrespectful. On September 27, 2007, the employer offered hearsay testimony to again establish that the claimant had another argument with his supervisor. On September 28, 2007, the employer offered firsthand testimony that the claimant was again argumentative regarding a problem with some parts. On September 28, 2007, the claimant had a disagreement with the materials manager. The claimant was then called in to a meeting with another manager. The

claimant then began to argue with the individual in the meeting. The claimant was then discharged.

At the hearing, the claimant testified that he did not consider himself to be argumentative. Instead, he considered himself to be “presenting his side of the case.” He argued that he had a right to a “fair hearing” when his supervisor reprimanded him.

Appellant’s App. pp. 20-21 (internal citations omitted).

Williamson appealed this determination to the Review Board. They concluded that Williamson was not entitled to unemployment insurance benefits because he was discharged for just cause. Williamson appeals.

Standard of Review

The Indiana Unemployment Compensation Act provides that “[a]ny decision of the review board shall be conclusive and binding as to all questions of fact.” Ind. Code § 22-4-17-12(a) (2005). When the decision is challenged as contrary to law, the reviewing court is limited to a two-part inquiry into the “sufficiency of the facts found to sustain the decision” and the “sufficiency of the evidence to sustain the findings of facts.” Ind. Code § 22-4-17-12(f) (2005). This standard calls upon this court to review: (1) determinations of specific or basic underlying facts; (2) conclusions or inferences from those facts, or determinations of ultimate facts; and (3) conclusions of law. Stanrail Corp. v. Review Bd. of the Ind. Dep’t of Workforce Dev., 735 N.E.2d 1197, 1202 (Ind. Ct. App. 2000), trans. denied (citing McClain v. Review Bd. of the Ind. Dep’t of Workforce Dev., 693 N.E.2d 1314, 1317 (Ind. 1998)).

Review of the Board’s findings of basic fact are subject to a “substantial evidence” standard of review. McClain, 693 N.E.2d at 1317 (citing KBI, Inc. v. Review Bd. of the Ind. Dep’t of Workforce Dev., 656 N.E.2d 842, 846 (Ind. Ct. App. 1995)). In this

analysis, we neither reweigh the evidence nor assess the credibility of witnesses and consider only the evidence most favorable to the Board's findings. Gen. Motors Corp. v. Review Bd. of the Ind. Dep't Workforce Dev., 671 N.E.2d 493, 496 (Ind. Ct. App. 1996). Reversal is warranted only if there is no substantial evidence to support the Board's findings. KBI, Inc., 656 N.E.2d at 846. The Board's determinations of ultimate facts involve an inference or deduction based upon the findings of basic fact that is typically reviewed to ensure that the Board's inference is reasonable. McClain, 693 N.E.2d at 1317-18. Finally, we review conclusions of law to determine whether the Board correctly interpreted and applied the law. Parkison v. James River Corp., 659 N.E.2d 690, 692 (Ind. Ct. App. 1996).

Discussion and Decision

In Indiana, an unemployed claimant is ineligible for unemployment benefits if he is discharged for "just cause" pursuant to Indiana Code section 22-4-15-1. Stanrail Corp., 735 N.E.2d at 1202; Ind.Code § 22-4-15-1 (2005). Under the statute,

"Discharge for just cause" as used in this section is defined to include but not be limited to:

* * *

(5) refusing to obey instructions;

* * *

(8) ... or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

Ind. Code § 22-4-15-1(d) (2005). Discharge for just cause in connection with employment includes discharge for the employee's willful disregard of the employer's interest or the employee's willful disregard of the employee's duties. Osborn v. Review Bd. of the Ind. Employment Sec. Div., 178 Ind.App. 22, 27, 381 N.E.2d 495, 498 (1978).

A. Admission of Nuell's Exhibits

The initial question we must answer is whether Williamson, who appeared pro se before the ALJ, properly objected to Nuell's exhibits. Hearsay may not be the sole basis of a decision at a hearing before an ALJ if properly objected to at the hearing and preserved on review. Forster v. Rev. Bd. of Ind. Employment Sec. Div., 420 N.E.2d 1287, 1291 (Ind. Ct. App. 1981). If the claimant did not object to the hearsay, however, then the ALJ may properly consider the evidence in reaching its decision. Id.

Hearings before an ALJ are informal proceedings designed to determine the substantial rights of the parties. 646 Ind. Admin. Code 3-12-3(b) (2008). At the administrative hearing, the ALJ asked Williamson if he had any objections to employer's exhibits. Williamson objected to Employer's Exhibits A-1, A-3, A-4, B, D, F, and G, however, Williamson did not clearly indicate the substantive basis of his objections at that time or at any time during the hearing. See Highland Town Sch. Corp. v. Rev. Bd. of the Ind. Dep't Workforce Dev., 892 N.E.2d 652, 656 (Ind. Ct. App. 2008). Without proper objection by Williamson concerning the exhibits, the ALJ could properly use any of the hearsay evidence at issue as the sole basis for her decision.

B. Discharge for Just Cause

The Review Board argues that under Indiana Code section 22-4-15-1(d)(8), Williamson was discharged for just cause. It would also appear that Nuell also relied on subsection (d)(5) as well. The Review Board is limited to consideration of the employer's stated reasons for discharge. See Hehr v. Review Bd. of Ind. Employment Sec. Div., 534 N.E.2d 1122, 1125 (Ind. Ct. App. 1989). Accordingly, because an

employer need only prove one such basis for just cause, we address whether Nuell had just cause to discharge Williamson under Indiana Code Section 22-4-15-1(d)(8), for willfully disregarding the employer's interest or the willful disregard of the employee's duties.

Here, the record shows that Williamson's 90-day review noted that he did not take direction well and was argumentative. Appellant's App. p 12. On September 17, 2007, Williamson became argumentative with the executive assistant regarding his suspension for tardiness. On September 28, 2007, Williamson argued with the quality manager over a parts problem. On October 22, 2008, during a conversation with the material manager and the quality manager, Williamson became very argumentative.

Based upon this record, we conclude that substantial evidence supported the Review Board's conclusion that Williamson was discharged for just cause. The record establishes that Williamson was consistently argumentative when questioned by his supervisors or when given instruction by them. This behavior shows not only a willful disregard for Williamson's duties as an employee but a willful disregard of the employer's interest that amounts to insubordination.

Williamson's allegations regarding the ALJ are merely requests to reweigh the evidence or reassess the credibility of the witnesses and this we will not do.¹ Under the

¹ Williamson alleges that the ALJ cut off his testimony however a review of the record does not reflect this allegation. Regardless, Williamson did not object to being "cut off" nor did he ask that he be allowed to finish his testimony.

facts and circumstances of this case, we conclude that substantial evidence existed to support the Review Board's determination that Williams was discharged for just cause.

Affirmed.

BAILEY, J., and BARNES, J., concur.